

CHAPTER II

EMPLOYMENT AND PLACEMENTA. EMPLOYMENT

1. General Policy. Each DoD Component shall ensure that the recruitment, selection, placement, promotion, termination and other related personnel actions involving NAFI employees are in consonance with the fair employment practices and equal opportunity and treatment for both applicants and employees.

2. Specific Policies

a. Categories of Employees. Each DoD Component shall categorize its NAFI employees for purposes of establishing for each employee the status of his or her employment within one of the following definitional categories:

(1) Regular Employees

(a) Regular full-time (RFT) employees are those hired for continuing positions and who have a regularly scheduled workweek of '35 hours or more.

(b) Regular part-time (RPT) employees are those hired for continuing positions for a minimum of 20 hours per week but fewer than 35 hours per week on a regularly scheduled basis.

(2) Temporary Employees

(a) Temporary full-time employees are those who are employed for 35 hours or more per **week for not more than 12** months in a continuing pay status in the same NAFI. When their employment goes beyond this period, the category of employment will be changed to that of RFT employees.

(b) Temporary part-time employees are those who are employed for a minimum of 20 hours per week but fewer than 35 hours per week for not more than 12 months in a continuing pay status in the same NAFI. If employed in a continuing pay status beyond this period, the category of employment will be changed to that of RPT employees.

(3) Intermittent Employees. Employees who work less than 35 hours a week. Their employment is on a recurring basis, but only when needed.

(4) Temporary Emergency Employees. Those who are employed for not more than 30 days in the event of an emergency, without regard to normal hiring priorities. One 30-day extension may be authorized by Heads of DoD Components.

(5) Variable Schedule Employees. Individuals employed less than 35 hours a week and whose hours of work, basic workweek and workdays are subject to frequent change without change in employment category.

b. Equal Employment Opportunity

(1) The Heads of DoD Components shall establish, maintain, and carry out a continuing affirmative action program designed to promote equal opportunity in every aspect of personnel policy and practice in the employment, development, advancement, and treatment of their NAFI employees. This includes aliens employed in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. This policy implements Executive Order 11478, **P.L.** 92-261, 42 **U.S.C.** 2000e-1, and DoD Directive 1440.1.

(2) The Head of each DoD Component shall:

(a) Provide sufficient resources to administer its equal employment opportunity program among the **NAFIs** in a positive and effective manner.

(b) Conduct a continuing campaign to eradicate every form of prejudice or arbitrary discrimination based on race, color, religion, sex, age, national origin, or handicapped condition, from personnel policies, practices, and working conditions to include appropriate action against employees who display prejudice or arbitrarily discriminate in action or interaction with other employees.

(c) Communicate this policy and program and employment needs to appropriate sources of job candidates and solicit their recruitment assistance on a continuing basis.

(d) Utilize to the fullest extent the present skills of employees by all means, including the redesigning of jobs where feasible.

(e) Consistent with the organization of the individual **NAFI** activity and the scope of available advancement opportunities, establish an Upward Mobility Program for NAFI employees that will provide the maximum feasible opportunity for employees to enhance their highest attainable levels of skills, knowledge, and abilities through on-the-job training, job re-engineering, and other development measures so that they may perform at their highest potential and advance in accordance with their capabilities.

(f) Provide orientation, training, and guidance to managers and supervisors to ensure their understanding and implementation of the equal employment policy program.

(g) Provide for participation at the local community level with other employers, schools, universities, and public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(h) Provide for counseling employees and applicants who believe they have been discriminated against and for informally resolving matters raised by them.

(i) Provide for the prompt, fair, and impartial consideration and disposition of complaints involving issues of discrimination.

(j) Establish a system for periodically evaluating the effectiveness of the overall equal employment opportunity effort.

c. Employment of Relatives. The employment, appointment, or promotion of relatives of commissioned officers, noncommissioned officers, and civilian officials who hold administrative positions in which they exercise jurisdiction or control over the employing NAFI is prohibited. Further, such officials may not advocate a **relative's** appointment, employment, promotion or advancement anywhere within the Department of Defense. This policy is consistent with provisions of 5 U.S.C. 3110. The policy does not prohibit the exercise of reemployment rights after military service as provided by the Military Selective Service Act of 1967, as amended. Component implementing directives should contain adequate instructions to ensure compliance with the provisions of 5 U.S.C. 3110 and Chapter 310, Federal Personnel Manual.

d. Employment of Minors. Heads of DoD Components may authorize the employment of minors, ages 14 and 15. In foreign areas, such employment shall **be** under summer and student programs and paid under a special summer and student wage schedule. The employment of persons under 18 years of age shall be in accordance with the following:

(1) The Fair Labor Standards Act in **that such** persons may not be employed in or "assigned to positions that are hazardous or detrimental to their health.

(2) Published state and local labor standards and requirements.

e. Employment of Retired U.S. Military Personnel. Retired members of the Uniformed Services shall be accorded the same rights and considerations as all other applicants for civilian employment in **NAFIs**. However, their employment shall be subject to the restrictions imposed by DoD Directive 1402.1 .

f. Utilization of U.S. Off-Duty Military Personnel

(1) Subject to the provisions of DoD Directive 5500.7, enlisted personnel may be employed in a NAFI position after duty hours on other than a full-time basis; that is, regular part-time, temporary part-time, intermittent, or variable. No NAF monies may be disbursed for payment of personal services to any military personnel, except as authorized above. Specifically precluded under the provisions of these instructions is the payment of NAF scheduled pay, bonuses, overtime pay, incentive pay, **or** any other remuneration for work performed by military personnel, while either on or off-duty, who are not employed in a NAFI position. Time worked in the military assignment shall not be used to determine the pay of enlisted personnel for duties performed in NAFI positions.

(a) Heads of Components shall issue, for control purposes, specific instructions to preclude conflict of interest and preferential hiring of enlisted personnel who are assigned to a morale, welfare, recreation, billeting, or other activity supported by a NAFI as prime military duty.

(b) Compensation for off-duty hours worked shall be identical to that authorized in salary and wage schedules for civilian employees who perform similar duties and responsibilities.

(c) The total number of hours that off-duty enlisted personnel may work in one, or more NAFIs shall not exceed 34 hours in any one administrative workweek.

(2) Active duty commissioned and warrant officers are prohibited from receiving compensation in any form from **NAFIs** except on an intermittent fee basis for services rendered in such capacities as officials at athletic events and participation in miscellaneous recreational and entertainment activities as approved by appropriate authority. Off-duty enlisted personnel may also be compensated for services rendered during these events on an intermittent fee basis, notwithstanding the provisions of subparagraph **A.2.f.(1)**, above.

9* Reinstatement

(1) RFT and RPT employees who have satisfactorily completed the probationary period, as explained in Chapter II, paragraph B.2.f., and who separate voluntarily or who are separated involuntarily, other than for cause, may be reinstated by any DoD NAFI within 6 months of the date of their separation. Except for the benefit entitlements under the provisions of Chapter VI of this Manual, such personnel shall be considered to have been in continuous service during the separation period, in a leave-without-pay status with rights, privileges, and benefits accruing as set forth in this Manual.

(2) An individual suspended or removed for reasons of national security may be restored to "duty in a NAFI at the discretion of the Head of the DoD Component concerned.

h. Transfers. A transfer is the movement of a NAFI employee from one NAFI to another. Except as provided in subparagraph **A.2.h.(2)** below, the transfer occurs without a break in service of over 1 workday.

(1) Transfer of Functions. A transfer of function is the transfer of responsibility for the performance of a continuing function from one NAFI to one or more other **NAFIs** within or between DoD Components. An employee has no right to transfer with his or her function regardless of his or her personal preference, unless the alternative is separation or downgrading.

(a) To provide equity and employment continuity, each RFT and RPT NAP employee whose position is identified in a functional transfer between **NAFIs**, and who has the right to transfer, will be afforded the opportunity to transfer with his or her position.

(b) If the functional transfer results in a reduction in force (**RIF**) in the gaining **NAFI**, the employee who is qualified and who will accept employment will compete for placement with other employees for selection in the receiving NAFI with **full** credit for **all** prior **RFT** or **RPT** NAFI service within the Department of Defense.

(2) A RFT or RPT employee who has completed his or her probationary period and who is hired by a different NAFI within 6 months after removal from pay status because of RIF in a losing NAFI will be considered to have transferred to the gaining NAFI only for purposes outlined in subparagraphs **A.2.h.(3)**, (5), and (6) below.

(3) An employee who has transferred from one **NAFI** to another NAFI within DoD will be given service credit in the gaining NAFI for his or her prior DoD NAFI employment in accordance with the provisions of this Manual.

(4) Upon transfer of a RFT or RPT employee to another NAFI within DoD, the employee will be paid for the accumulated annual leave credited to his or her account. However, if the transferred employee elects, and the losing and gaining **NAFIs** agree, annual leave credit and the funds to cover its cost may be transferred from the losing to the gaining **NAFI**.

(5) All accumulated sick leave credit shall be transferred by the **losing** NAFI to the gaining NAFI provided the individual is placed in a pay status in the gaining NAFI within 6 months. However, no transfer of funds shall be made from losing to gaining NAFI for sick leave credits transferred. The gaining activity will assume the financial obligation.

(6) When a RFT DoD NAFI employee participating in a NAFI retirement plan is transferred due to transfer of function, or is hired by a different NAFI within 90 calendar days of removal from pay status because of RIF in **the losing NAFI**, and the gaining DoD NAFI offers a different retirement plan, the employee is entitled to transfer of pension rights, so that on retirement the employee will draw a pension under the gaining DoD NAFI retirement plan, computed on total credited NAFI service with both losing and gaining **NAFIs**. Retirement credit will be in accordance with Chapter VI, paragraph **C.3.e.** and Appendix B, subsection **B.5.**, "Retention of Accrued Credited Service for Retirement Annuity Purposes." Further, group life and health insurance coverage **will** be made available by the gaining DoD NAFI as described in Chapter **VI**, subsection C.6, effective with the date of application if the transferred employee files application for such coverage within 1 month from the date of employment with the **NAFI**.

i. Movement to NAFI Employment from **Other** Types of Employment. An employee in a public or private enterprise, whose duties are to be performed in a **NAFI**, may be employed by that NAFI without competition if the employee:

(1) Meets the citizenship requirement of the geographical area in which employed.

(2) Is qualified for the position.

(3) Has rendered at least 6 months of service in one or more positions in the previous employing activity immediately before being converted to NAFI employment.

(4) Is not precluded from NAFI employment because of dual compensation, nepotism, conflict of interest, or country-to-country agreement provisions.

j. Employee Move Cost-Reduction Program. In order to reduce costs to both the NAFI and to the employee, Heads of DoD Components may establish an employee move cost-reduction program whereby an eligible employee may receive a monetary reward for opting to move his or her own household goods, for opting to sell his or her own house, or for opting not to ship a privately owned vehicle to or from overseas. The monetary rewards should be less than normal NAFI costs resulting from employee moves. Therefore, both the employee and the NAFI would benefit. Since the AAFES cost-reduction program has proven to be a success, Heads of DoD Components are encouraged to use it as a guide in establishing Component programs.

B. RECRUITMENT, SELECTION, AND PLACEMENT

1. General Policy. Proper recruitment, selection and placement procedures are vital factors in the development of a viable and effective NAFI work force. To achieve this objective, Heads of DoD Components, in the administration of their NAFI personnel, shall establish personnel management procedures which include careful job analysis; preparation of accurate job descriptions; establishment of the qualifications for positions; a broad source of applicants; objective selection procedures; and adequate indoctrination and supervision of the individual while on the job.

2. Specific Policies

a. Position Control

(1) At **all** times NAFI personnel management emphasis shall be to eliminate unnecessary positions at all levels, to increase productivity by improved control, and to ensure maximum utilization of NAFI worker hours. A continuing review of positions shall be conducted to ensure that requirements are commensurate with operating needs.

(2) Heads of DoD Components shall exercise strong supervision, through adjustments in the existing manpower resources of the employing **NAFI**, to ensure that established NAFI jobs do not exceed actual workload requirements.

b. Qualification Requirements. Establishment of realistic qualification standards and requirements for any NAFI **position** shall be based on factual job requirements. These qualifications shall be written so that the competition for the job is not restricted to any one individual. The qualifications of each applicant for a NAFI position shall be carefully reviewed and evaluated. The basic applicable principle is finding the best qualified person available for the job.

c. Employment Requirements

(1) To ensure that the most suitable and qualified persons are employed by **NAFIs** at all levels, DoD Components shall ensure that established recruiting procedures are followed to the fullest extent practicable. These include submission of a complete and accurate application form, reference checks, and any security and other preemployment investigations deemed appropriate to the position, and compliance with **P.L.** 99-603, "Immigration

Reform and Control Act of 1986," and Immigration and Naturalization Service Rules necessitated by it.

(2) The suitability of applicants will be determined by utilizing as a guide the provisions of Chapter 731 of the Federal Personnel Manual. Candidates for assignment to positions of trust will be scrutinized. Compliance with DoD 5200.2-R, "DoD personnel Security program," is required before placing an individual in a position of trust; such positions are to be designated by the Components. **An** individual who does not meet established suitability requirements may not be employed without prior approval of the local commander.

d. Veteran Employment Preference. Preference in employment, at the time of hire only, will be given to qualified applicants who meet (1) one of the veterans' preference eligibility criteria in 5 **U.S.C.** 2108 and (2) the minimum service requirements in FPM Supplement 296-33, provided they are equally qualified for the vacant position. (Exception: See Chapter II, paragraph D. -- especially D.9. -- and Chapter VII, paragraph B.1 a.)

e. Veteran Restoration Rights. Veteran restoration rights after military service shall be administered in accordance with provisions contained in 38 **U.S.C.** 2021 , et seq.

f. probationary Period. **A** probationary period is required for a person appointed to a RFT or RPT position in a **NAFI**. Exceptions to this requirement are limited to the appointment of a person who has completed a probationary period and who is appointed either in the same **NAFI** within 6 months after separation from that **NAFI** without cause or as the result of a transfer of function from another **NAFI**.

g. Training and Career Development. Heads of DoD Components may institute career development programs for **NAF** employees in order to attract and retain a well-qualified work force, These programs shall embody training, counseling, appraisal and other improvement devices that will enable employees to develop and progress.

h. Work Performance Appraisals. The work performance of **NAFI** employees shall be evaluated fairly and objectively on both a scheduled and continuous basis with the results of such evaluation discussed with each individual employee.

i. Employee Records and Files

(1) Heads of DoD Components shall ensure that **NAFIs** keep and maintain records in compliance with the Fair Labor Standards Act of 1938, as amended. Additionally, Heads of DoD Components **shall** ensure that adequate records are maintained on all employees. Records shall include all official personnel documents effected during an employee's service. **AI-I** employee's right to review his or her records and the protection of his or her privacy **shall be** in accordance with **P.L.** 93-579, the Privacy Act of 1974 (5 **U.S.C.** 552a).

(2) Except as provided in (a) below, **NAFI** health units operating under the control of a medical officer or a registered nurse under medical supervision **shall retain** records of medical examinations and other

miscellaneous medical records and keep them confidential. Otherwise, they shall be kept in a separate locked cabinet during the employee's NAFI service and may not be made a part of the official personnel folder.

(a) Medical certificates and any other medical records of examinations used to determine an employee's fitness for the -job are permanent records and shall be placed in a sealed envelope. The employee's name (last, first, middle initial), date of birth, and social security number, as illustrated in DoD 5000.12-M, shall appear on the envelope in its upper right hand corner, and the envelope shall be attached on the right side of the official personnel folder. The envelope shall remain attached until the employee's folder is acquired by another NAFI at which time the receiving **NAFI**, upon receipt of the folder, shall remove the sealed envelope and place its contents either in the health unit or in a locked cabinet for safeguarding medical records.

(b) Miscellaneous medical records, correspondence, dispensary records, and similar papers of temporary value shall be disposed of in accordance with the records disposition schedule of the DoD Component concerned.

(3) Records disposition shall be accomplished in accordance with instructions contained in the official records disposition schedule for DoD Nonappropriated Fund Employee Personnel Records as approved by the General Services Administration, National Archives and Records Service, on June 29, 1983, as may be amended. When the employment of an individual is terminated, the personnel folder shall be marked "Inactive" and filed in an inactive file. These folders shall be retained by the employing NAFI until proper disposition in accordance with the above-mentioned official records disposition schedule. Disposition of temporary records shall be in accordance with the above-mentioned official records disposition schedule. When a terminated employee is employed by another **NAFI**, the employee's personnel folder, upon request, shall be forwarded by the holder to the new employer.

(4) In an effort to expedite requests for information relative to retirement benefits or personnel data, DoD Components shall advise, in writing, separating employees where they may obtain the desired information or record.

j. Volunteer Service. Heads of DoD Components (a) may prescribe regulations to provide for accepting volunteer services; and (b) prior to accepting volunteer services, tort liabilities and workers' compensation liabilities that may be incurred by their utilization shall be weighed.

k. Supervision of Appropriated Fund Employees. There is no legal prohibition against the supervision of appropriated fund employees within the DoD Components by NAF employees.

1. Details of Employees.

(1) A detail is a temporary assignment of an individual to a position different from his or her regular assignment for a period not to exceed 1 calendar year, with the employee returning to his or her regularly **assigned** duties at the end of the detail. An employee may not be detailed to a position that has less work hours than his or her regular position unless the employee voluntarily requests such detail.

(2) An employee who is detailed to a position at the same or lower grade level as the one from which detailed shall continue to be paid at his or her regularly scheduled rate of pay.

(3) Except for brief periods, employees should not be detailed to perform work of a higher grade level unless there are compelling reasons for so doing. Normally, an employee shall be promoted temporarily to the higher level in accordance with the merit promotion and staffing program. In any event, if a detail to a higher grade level position will last more than 60 calendar days, the employee shall be promoted temporarily under merit promotion and staffing requirements to the higher grade level effective on the 61st day of the detail. Employees improperly detailed to higher grade positions for extended periods shall be allowed retroactive temporary promotions with **backpay**.

(4) Employees may not be detailed longer than one year at 120 day increments to perform duties that have not been evaluated as to grade level. Prior to the 120th calendar day of such details, the duties involved shall be evaluated, and personnel action shall be taken consistent with the policies for details to work of higher, lower, or equal grade.

C. AFFIRMATIVE ACTION FOR HIRING, PLACEMENT, AND ADVANCEMENT OF HANDICAPPED INDIVIDUALS

1. Heads of DoD Components shall give full consideration to employment of handicapped individuals in all **NAFIs**, and shall ensure implementation of all required laws, executive orders, rules, and regulations, including applicable regulations of the **Equal** Employment Opportunity Commission and the Office of Personnel Management. In meeting these requirements, **NAFIs** will ensure that qualified handicapped individuals, including current employees who became disabled after appointment, have equitable opportunities to be hired, placed, and advanced in **NAFI** -jobs. In addition, Heads of DoD Components are authorized and encouraged to use any civil service provisions for hiring handicapped individuals that do not cover **NAFIs** as a guide to further develop policies and programs that will foster the effort to promote and expand employment opportunities for handicapped individuals so that their skills may be utilized.

2. Affirmative action is to be an integral part of ongoing Component personnel management programs, as evidenced by persons with disabilities being employed in a broad range of grade levels and occupational series commensurate with their qualifications and by Component policies that do not unnecessarily exclude or limit persons with disabilities because of job structure or design or because of architectural, transportation, **communication**, procedural, or attitudinal barriers.

D. EMPLOYMENT OF SPOUSES OF MILITARY PERSONNEL

1. This Chapter implements Section 806 of P.L. 99-145, "DoD Authorization Act," November 8, 1985, and Executive Order 12568, October 2, 1986, and prescribes improved employment opportunities for spouses of military personnel.

2* Heads of DoD Components shall provide employment preference for spouses applying and referred for certain nonappropriated fund positions in all

employment categories at grade levels UA-8 and below and equivalent positions and for positions paid at hourly rates.

3. Spouses eligible for preference shall be included as part of the minimal consideration area in the competitive process. A spouse eligible for preference shall request consideration by submission of a Standard Form 171 or other appropriate application form to the civilian personnel office where consideration is desired. Spouse preference shall be limited to the specific position(s) where application is made. DoD Components shall establish procedures for verifying preference. Spouse preference shall be applied reciprocally across DoD Component lines.

4. Heads of DoD Components may establish guidelines for approving exceptions to selections and/or length of eligibility of spouse preference. Exceptions shall be rare and based only on compelling hardship to the DoD Component mission or the applicant.

5. Heads of DoD Components shall establish measures by which job information is reasonably available for spouses seeking employment. Spouses not eligible for spouse preference under this Chapter shall be considered for employment in the same geographic area as the duty station of the military sponsor to the greatest extent possible.

6. A preference eligible spouse shall be placed on a selection list only if he or she is among the best qualified candidates after a competitive screening process is completed.

7. A preference eligible spouse without reinstatement eligibility shall be given preference over a nonpreference spouse if the preference eligible spouse has notified the applicable gaining civilian personnel office of his/her preference eligibility.

8. The time period of spouse preference eligibility begins 30 days before the military sponsor's reporting date into the new duty location and continues during the entire tour unless placement into, or declination of, any position offer at any grade level that the eligible spouse has registered for employment preference; whichever takes place first. Heads of DoD Components may end or maintain spouse preference eligibility during the last six months of the sponsor's tour. Spouse preference may be exercised once for each permanent relocation of the military sponsor.

9. Eligible spouses shall receive preference for nonappropriated fund jobs over veterans.

10. Definitions

a. Geographical Area of Spouse Preference. Spouse preference eligibles shall be given preference in the same commuting area as that of the new duty station of the military sponsor. Customary commuting area definitions used with other regulatory programs shall be used.

b. Spouse Preference. Spouse preference shall be given an eligible spouse, as defined in paragraph c. below, relocating with a military sponsor and who applies, based on spouse preference, for a vacant position in the DoD

Components at UA-8 and below or equivalent hourly rate positions. **An** eligible spouse must be selected ahead of other applicants, without regard to other priorities in this Manual, when the spouse is determined to be best qualified. Spouse preference must be applied when a vacant position is filled through open competition resulting in a list of best qualified candidates. Noncompetitive selections and placements do not require the application of spouse preference (e.g., reassignments, **transfers**, and rights conferred by court decisions). When more than one spouse is being considered **on** spouse preference eligibility, selection may be made from among available spouse preference eligibles in any order.

c. Spouse Preference Eligible. Wife or husband of an active duty military member of the Armed Forces, including the Coast Guard, a member of the National Guard or Reserves on active duty. To be eligible for preference, the spouse preference eligible must have entered into marriage with the military sponsor before the military sponsor received official orders authorizing the permanent change **of** station relocation.

d. Spouse Preference Position. A nonappropriated fund position vacancy in the DoD Components at grade levels UA-8 and below or equivalent hourly paid position, when open competition is approved (i.e., when a candidate search through open recruitment action is approved).